IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Regular Second Appeal No. 1969 of 2007
Date of decision: October 08, 2007

Hukam Chand

.....APPELLANT

VERSUS

Smt. Prem and another

.....RESPONDENTS

CORAM: HON'BLE MR JUSTICE T.P.S.MANN

PRESENT: Mr Kul Bhushan Sharma, Advocate
for the appellant.

T.P.S .MANN, J.

The plaintiff-appellant has filed the present appeal against the impugned judgment and decree, whereby his suit for permanent injunction, was dismissed by Civil Judge (Jr. Division), Palwal on 16.5.2005 and the appeal was also dismissed by District Judge, Faridabad on 11.9.2006.

The plaintiff had claimed that he was exclusive owner in possession of property marked by letters “ABCDEF” as shown in the site plan and that the defendants were strangers qua the same or any part thereof. Therefore, they be restrained from interfering in his peaceful use and enjoyment of the aforementioned property.

In reply, the defendants took up the plea that the plaintiff under the guise of the suit wanted to grab the suit property illegally, whereas the

same was a passage only and not owned or possessed by him.

To claim the relief asked for, the plaintiff was required to prove that the property in dispute was a part and parcel of his property and he was owner and in possession of the same. In this regard, the plaintiff relied upon his own statement and that of one Kesari. However, both the learned lower Courts held that the plaintiff failed to prove his ownership and possession of the property in question. As per the report of the Local Commissioner, the property in question was lying vacant. The draftsman, who had prepared the site plan annexed with the plaint appeared as PW-3, but stated during his testimony that he had prepared the plan without visiting the spot, but on the instructions of the plaintiff.

When the plaintiff was cross-examined, he almost admitted the fact that the property in question was a passage and not his property. Faced with such a situation, he tried to explain that even the passage belongs to him. In this back-ground, it is clear that the property in question was only a passage and not owned by the plaintiff.

Both the learned lower Courts have given concurrent findings of facts against the plaintiff. There is no substantial question of law involved in the present appeal, which is hereby dismissed.

October 08, 2007 **(T.P.S.MANN)**
Pds **JUDGE**